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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/084,963      | 02/28/2002  | Satish Kumar Gagger  | 08CP12370           | 2217             |

7590 05/02/2003  
GE Plastics  
One Plastics Avenue  
Pittsfield, MA 01201

EXAMINER

MULLIS, JEFFREY C

ART UNIT PAPER NUMBER

1711

DATE MAILED: 05/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                   |               |  |
|------------------------------|-------------------|---------------|--|
| <b>Office Action Summary</b> | Application No.   | Applicant(s)  |  |
|                              | 10/084,963        | GAGGAR ET AL. |  |
|                              | Examiner          | Art Unit      |  |
|                              | Jeffrey C. Mullis | 1711          |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 28 February 2002.

2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-20 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

|   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

It is noted that the term "type" appears in the claims. While normally this term would render the claims unclear, it is noted that applicants' specification defines the term "type" in the context of the claims with clarity and the term "type" as appears in the claims is therefore acceptable.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 12-16 and 18-20 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Seitz et al. (USP 5,120,788).

Seitz et al. disclose a composition in which a butyl acrylate rubber phase is grafted with a mixture of

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styrene/acrylonitrile/ethylhexyl acrylate and then blended with styrene/acrylonitrile polymer containing 35% acrylonitrile. Note the Examples and Table in column 6 in this regard. While it is not explicitly disclosed that the matrix phase contains a styrene/acrylonitrile/ethylhexyl acrylate copolymer as is embraced by applicants' matrix phase "ai", this would be inherent given that grafting is never 100% efficient and given that applicants' claims recite absolutely no lower level of component "ai" and even a miniscule amount of styrene/acrylonitrile/ethylhexyl acrylate copolymer would meet the limitations of the claims. Therefore applicants' limitation that a matrix phase must contain component "ai" reasonably appears to be inherent. Since all of applicants' components reasonably appear to be inherent in the reference, applicants' characteristics also reasonably appear to be inherent. In any case, note that column 4 lines 45-59 of the patent specifically discloses that the hard component C may include styrene acrylonitrile methylmethacrylate terpolymer as well as styrene acrylonitrile copolymer and that the components C may be used "in mixtures". Therefore use of a combination of styrene/acrylonitrile copolymer and and styrene/acrylonitrile/methyl methacrylate terpolymer would have been obvious to a practitioner having ordinary skill in the art

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at the time of the invention in the expectation of adequate results absent any showing of surprising or unexpected results.

Claims 11 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Seitz et al., cited above.

With regard to the use of pigments in the composition of Seitz et al. such is taught by patentees at column 5 line 36. An addition of such materials would have been obvious to a practitioner having ordinary skill in the art at the time of the invention absent any showing of surprising or unexpected results.

With regard to the presence of styrene/acrylonitrile/methyl methacrylate terpolymer, the Examiner's position regarding the presence of this material is the same as set out above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Mullis whose telephone number is (703) 308-2820. The examiner can normally be reached on Monday-Friday from 9:30 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on (703) 308-2462. The fax phone number for this Group is before final (703) 872-9310 and after final (703) 8729311.

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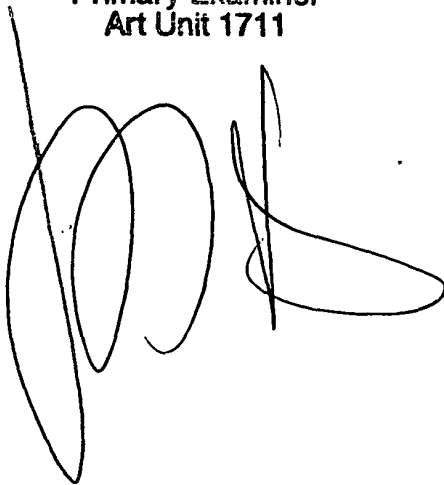
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2351.

J. Mullis:cdc

April 29, 2003

Jeffrey Mullis  
Primary Examiner  
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A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned below the printed name and title.